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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/592,986

09/14/2006

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SUITE 1201

NEW HAVEN, CT 06510

EXAMINER

BLATT, ERIC D

ART UNIT

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3734

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/592,986	Applicant(s) SULAMANIDZE ET AL.	
	Examiner Eric Blatt	Art Unit 3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 5, 6, 8 and 9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 8 and 9, independent claim 8 recites that the thread is introduced "in an extended state . . . as a compression spring and in a compressed state as an extension spring." It is unclear how the thread could be in both configurations during introduction, and whether this language means that the thread is simultaneously in two different configurations, is alternatively in either configuration, or if the thread is merely capable of being in either configuration.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson, III (US 6,663,633).

Regarding claim 5, Pierson discloses a surgical means (Figure 1H, Column 8, Line 54 to Column 9, Line 4) for cosmetic surgery comprising a rectilinear puncture needle 40 and a surgical thread having elements 12 for fixing subcutaneous tissue. Said elements comprise a helix shape in the form of a spring. Pierson does not disclose the dimensions of the thread or helix elements. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide said thread and helical elements such that the thread has a diameter of between 0.1 mm to 1 mm and said helix shaped elements have a diameter of between 0.5 to 5 mm since it has been held that it is within the knowledge of one of ordinary skill in the art to modify the sizes of elements to optimize the performance of a system. The thread is formed of a material selected from the group consisting of metal, polymer, biological, and mixtures thereof. (Column 8, Lines 54-67) Puncture needle 40 has a sharp front end. (Figure 1H) Pierson does not disclose that thread 12 is fastened to said sharp front end. Pierson discloses an alternate embodiment (Figure 1A) wherein the thread is indirectly fastened to the sharp front end such that the sharp front end may aid in pulling the thread through tissue. It would have been obvious to one of ordinary skill at the time of the invention to fasten the thread 12 to the sharp front end of the puncture needle 40 so that said sharp front end may aid in pulling the thread 12 through tissue. The thread 12 is more or less tightly wound around the needle 40. (Figure 1H) Alternatively, it would have been obvious to wind the thread more tightly in order to pass it through tissue in a more compressed configuration.

Regarding claim 6, Pierson discloses all elements of claim 6 except for rectilinear puncture needle 40 having an opening wherein helical thread 12 is fastened in said opening with a gap between the diameter of the helix and an inner wall of the needle. Pierson discloses an alternate embodiment (Figure 1J) wherein the helical thread 12 is fastened within an opening in an insertion element 20a in order to retain the thread 12 in a stretched or compressed state for insertion. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Figure 1H of Pierson by providing needle 40 with an opening and fastening thread 12 within said opening as taught by Figure 1J of Pierson in order to insert the thread 12 in a pre-stressed state. Since the helical coil is stretched within the opening, the diameter of the coil is reduced, and there is inherently some gap between the diameter of the helix and an inner wall of the needle. Supporting this claim, Figure 1J shows such a gap. Pierson does not disclose the dimensions of said gap. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide said gap such that it is between 0.2 and 2.0 mm since it has been held that it is within the knowledge of one of ordinary skill in the art to modify the sizes of elements to optimize the performance of a system.

Allowable Subject Matter

Claim 7 is allowed. The method of claim 7 comprises method steps that are not fairly taught by the prior art, notably reciting that the needle is turned during its

introduction following the loop windings of the thread and is turned during its extraction in the opposite direction compared with its introduction.

Claims 8 and 9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claims 8 and 9 include the allowable subject matter recited in claim 7.

Response to Arguments

Applicant's arguments with respect to claims 5 and 6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Blatt whose telephone number is (571)272-9735.

The examiner can normally be reached on Monday-Friday, 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin T. Truong/
Primary Examiner, Art Unit 3734

Eric Blatt
571-272-9735